



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2013-0040]

RIN 1625-AA87

Revision of Safety/Security Zone Regulations; 2014 Tampa Bay;

Captain of the Port St. Petersburg Zone, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is consolidating three security zone regulations into one regulation. In addition, the Coast Guard is disestablishing two safety zone regulations and converting those safety zones into security zones for all navigable waterways of Big Bend, Boca Grande, Crystal River, East Bay, Hillsborough Bay, MacDill Air Force Base, Manbirtee Key, Old Port Tampa, Port Manatee, Port Tampa, Port St. Petersburg, Port Sutton, Rattlesnake, and Weedon Island, FL. The purpose of these revisions is to ensure the security of vessels, facilities, and the surrounding areas within these zones. Entry into the area encompassed by these security zones is prohibited without permission of the Captain of the Port St. Petersburg or a designated representative.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.] .

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2013-0040. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Marine Science Technician First Class Hector I. Fuentes, Sector Saint Petersburg Waterways Management Branch, U.S. Coast Guard; telephone (813) 228-2191, e-mail Hector.I.Fuentes@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

On September 15, 2014, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled, "Revision of Safety/Security Zone Regulations; 2014 Tampa Bay; Captain of the Port St. Petersburg Zone, FL" in the Federal Register (79 FR 54937). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Due to the inherent dangers involved with the transport of the hazardous cargos included in this rule, it is in the best interest of the public to have a regulation in place and to not delay its effective date.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish limited access areas: 33 U.S.C.1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Department of Homeland Security Delegation No. 0170.1. The purpose of the regulation is to reorganize and consolidate three existing security zones in 33 CFR 165.760, 33 CFR 165.767 and 33 CFR 165.768 into a single regulation and to combine the safety zones in 33 CFR 165.703 and 33 CFR 165.704 into a single security zone regulation to ensure

the security of vessels, facilities, and the surrounding areas and provide safety of life on the navigable waters in the Captain of the Port St. Petersburg Zone.

C. Comments, Changes and the Final Rule

There were no comments related to this regulation during the comment period and there was no request for a public meeting made during the comment period.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders. These regulations were routed through and approved by the Tampa Bay Harbor Safety and Security Committee.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

This regulation is not a significant regulatory action because this change constitutes merely the merging of and

increased size of existing regulations. This rule may have some impact on the public, but these potential impacts will be minimized for the following reasons: there is ample room for vessels to navigate around security zones and there are several locations for recreational and commercial fishing vessels to fish throughout the Tampa Bay region.

Also, vessels wishing to enter, transit through, or anchor in the regulated areas may do so with the permission of the Captain of the Port.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want

to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate

protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045,

Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-

4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 165.703 to read as follows:

§ 165.703 Security Zones; Tampa Bay: Big Bend, Boca Grande, Crystal River, East Bay, Hillsborough Bay, MacDill Air Force Base, Manbirtee Key, Old Port Tampa, Port Manatee, Port Tampa, Port St. Petersburg, Port Sutton, Rattlesnake, and Weedon

Island, FL.

(a) Regulated areas. The following areas, denoted by coordinates fixed using the North American Datum of 1983 (World Geodetic System 1984) are security zones:

(1) Security zones for facilities and structures – (i) Rattlesnake, Tampa, FL. All water, from surface to bottom, in Old Tampa Bay east and south of the waters encompassed within position 27°53.32' N, 082°32.05' W; thence to 27°53.38' N, 082°32.05' W, including on land portions of Chemical Formulators Chlorine Facility, where the fenced area is bounded by a line connecting the following points: 27°53.21' N, 082°32.11' W; thence to 27°53.22' N, 082°32.23' W; thence to 27°53.25' N, 082°32.23' W; thence to 27°53.25' N, 082°32.27' W; thence to 27°53.29' N, 82°32.25' W; thence to 27°53.30' N, 082°32.16' W; thence to 27°53.21' N, 082°32.11' W.

(ii) Old Port Tampa, Tampa, FL. All waters, from surface to bottom, in Old Tampa Bay encompassed within the following points: 27°51.62' N, 082°33.14' W; thence to 27°51.71' N, 082°32.5' W; thence to 27°51.76' N, 082°32.5' W; thence to 27°51.73' N, 082°33.16' W; thence to 27°51.62' N, 082°33.14' W, closing off the Old Port Tampa Channel.

(iii) Sunshine Skyway Bridge, FL. All waters in Tampa Bay, from surface to bottom, in Cut "A" channel beneath the bridge's main span encompassed within the following points: 27°37.30' N,

082°39.38' W; 27°37.13' N, 082°39.26' W; and the bridge structure columns, base and dolphins. This zone is specific to the bridge structure and dolphins and does not include waters adjacent to the bridge columns or dolphins outside of the bridge's main span. Any vessel may transit through this zone but, may not loiter, anchor, or conduct operations, including dredging, dive operation, surveying, or maintenance, unless otherwise directed by the Captain of the Port. Anyone wanting to conduct these operations must submit a request via email to WWMTampa@uscg.mil or contact the Sector Command Center after hours at 727.824.7506.

(iv) Manbirtee Key, Port of Manatee, FL. All waters, from surface to bottom, surrounding, surrounding Manbirtee Key, Tampa Bay, FL extending 500 yards from the island's shoreline, in all directions, not to include the Port Manatee Channel.

(v) MacDill Air Force Base, Tampa Bay, FL. All waters encompassed within the following coordinates: 27°51.88' N, 082°29.31' W; thence to 27°52.01' N, 082°28.85' W; thence to 27°51.48' N, 082°28.17' W; thence to 27°51.02' N, 082°27.76' W; thence to 27°50.72' N, 082°27.61' W; thence to 27°50.33' N, 082°27.59' W; thence to 27°49.65' N, 082°27.73' W; thence to 27°49.34' N, 082°27.79' W; thence to 27°49.10' N, 082°27.88' W; thence to 27°48.88' N, 082°28.10' W; thence to 27°48.76' N, 082°28.54' W; thence to 27°48.87' N, 082°29.44' W; thence to

27°49.06' N, 082°30.39' W; thence to 27°48.75' N, 082°31.17' W; thence to 27°49.16' N, 082°32.41' W; thence to 27°49.64' N, 082°33.04' W; thence to 27°49.95' N, 082°32.75' W; thence to 27°50.09' N, 082°32.81' W; thence to 27°50.56' N, 082°32.75' W; thence to 27°50.71' N, 082°32.18' W.

(vi) Piers, seawalls, and facilities, Port of Tampa and Port Sutton, Tampa, FL. All waters, from surface to bottom, extending 50 yards from the shore, seawall, and piers around facilities in Port Sutton within the Port of Tampa encompassed by a line connecting the following points: 27°54.15' N, 082°26.06' W; thence to; 27°54.46' N, 082°25.71' W; closing off all Port Sutton Channel.

(vii) Piers, seawalls, and facilities, Port of Tampa, on the western side of Hooker's Point, Tampa, FL. All waters, from surface to bottom, extending 50 yards from the shore, seawall, and piers around facilities on Hillsborough Bay northern portion of Cut "D" Channel, Sparkman Channel, Ybor Turning Basin, and Ybor Channel within the Port of Tampa encompassed by a line connecting the following points: 27°54.74' N, 082°26.47' W; thence to 27°55.25' N, 082°26.73' W; thence to 27°55.60' N, 082°26.80' W; thence to 27°56.00' N, 082°26.75' W; thence to 27°56.58' N, 082°26.53' W; thence to 27°57.29' N, 082°26.51' W; thence to 27°57.29' N, 082°26.61' W; thence to 27°56.65' N,

082°26.63' W; thence to 27°56.58' N, 082°26.69' W; thence to 27°56.53' N, 082°26.90' W.

(viii) St. Petersburg Harbor, FL. All waters, from surface to bottom, extending 50 yards from the seawall and around all moorings and vessels in St. Petersburg Harbor (Bayboro Harbor), commencing on the north side of the channel at day beacon "10" (LLNR 24995) in approximate position 27°45.56' N, 082°37.55' W, and westward along the seawall to the end of the cruise terminal in approximate position 27°45.72' N, 082°37.97' W. The zone will also include the Coast Guard south moorings in St. Petersburg Harbor. The zone will extend 50 yards around the piers commencing from approximate position 27°45.51' N, 082°37.99' W; to 27°45.52' N, 082°37.57' W. The southern boundary of the zone is shoreward of a line between the entrance to Salt Creek easterly towards day beacon "11" (LLNR 24990).

(ix) Crystal River Nuclear Power Plant. All waters, from surface to bottom, around the FL, Power Crystal River Nuclear Power Plant located at the end of the Florida Power Corporation Channel, Crystal River, Florida, encompassed by a line connecting the following points: 28°56.87' N, 082°45.17' W; thence to 28°57.37' N, 082°41.92' W; thence to 28°56.79' N, 082°45.13' W; thence to 28°57.32' N, 082°41.92' W.

(x) Crystal River Demory Gap Channel. All waters, from surface to bottom, in the Demory Gap Channel in Crystal River,

Florida, encompassed by the following points: 28°57.61' N, 082°43.42' W thence to; 28°57.55' N, 082°41.88' W thence to; 28°57.58' N, 082°43.42' W thence to; 28°57.51' N, 082°41.88' W.

(xi) Big Bend Power Plant, FL. All waters of Tampa Bay, from surface to bottom, adjacent to the Big Bend Power Facility, and within an area bounded by the following points: 27°48.08' N, 082°24.88' W; thence to 27°48.15' N, 082°24.96' W; thence to; 27°48.10' N, 082°25.00' W; thence to 27°47.85' N, 082°25.03' W; thence to 27°47.58' N, 082°24.89' W; thence to 27°47.58' N, 082°24.06' W; thence to; 27°47.62' N, 082°24.04' W; thence to 27°47.63' N, 082°24.71' W; thence to 27°48.03' N, 082°24.70' W; thence to 27°48.08' N, 082°24.88' W, closing off entrance to Big Bend Power Facility and the attached cooling canal.

(xii) Weedon Island Power Plant, FL. All waters of Tampa Bay, from surface to bottom, extending 50 yards from the shore, seawall and piers around the Power Facility at Weedon Island encompassed by the following points: 27°51.52' N, 082°35.82' W; thence along the shore to; 27°51.54' N, 082°35.78' W; thence to 27°51.89' N, 082°35.82' W; thence to 27°51.89' N, 082°36.14' W, closing off the entrance to both canals.

(2) Vessel specific security zones – (i) Moving security zones for Cruise Ships and vessels carrying Especially Hazardous Cargos. The following security zones and procedures are

established for all waters, from surface to bottom, within a 500-yard radius, as outlined below:

- (A) For inbound vessels commencing at Egmont Channel Lighted Buoys "9" (LLNR 22270) and "10" (LLNR 22275) through to berth.
- (B) For shifting vessels from their departure berth to destination berth.
- (C) For outbound vessels commencing at berth through to Egmont Channel Lighted Buoys "9" (LLNR 22270) and "10" (LLNR 22275).
- (D) All subject vessels operating in the Captain of the Port St. Petersburg Zone shall follow the reporting requirements in 33 CFR part 160, subpart C.
- (E) Any vessel desiring to enter or transit the security zone shall obtain permission from the Captain of the Port St. Petersburg or a designated representative. If permission is granted, all persons and vessels must comply with any given instructions.

(ii) Fixed security zones for moored cruise ships and moored vessels carrying especially hazardous cargos. A security zone is established for all waters, from surface to bottom, within a

200-yard radius around moored cruise ships and moored vessels carrying especially hazardous cargos, as outlined below:

- (A) All subject vessels operating in the Captain of the Port St. Petersburg Zone shall follow reporting requirements in 33 CFR part 160, subpart C.
- (B) Any vessel desiring to enter or transit the security zone shall obtain permission from the Captain of the Port St. Petersburg or a designated representative. If permission is granted, all persons and vessels must comply with any given instructions.
- (C) No vessel may loiter, anchor, or conduct maintenance operations within the security zone, unless otherwise directed by the Captain of the Port St. Petersburg or a designated representative. This includes, but is not limited to dredging operations, dive operations, and surveying. Anyone wanting to conduct these operations must submit a request via email to WWMTampa@uscg.mil or contact the Sector Command Center after hours at 727.824.7506.

(b) Definitions. As used in this section:

Ammonium nitrate means ammonium nitrate and ammonium nitrate based fertilizers listed as Division 5.1 (oxidizing) materials as defined in 33 CFR 172.101 except when carried as CDC residue.

Captain of the Port (COTP) for the purpose of this section means the Commanding Officer of Coast Guard Sector St. Petersburg.

Captain of the Port St. Petersburg Zone as defined in 33 CFR 3.35-35.

Commercial vessels means any tank, bulk, container, cargo, cruise ships, pilot vessels, or tugs. This definition excludes fishing vessels, salvage vessels, dead ship tow operations.

Cruise Ship means the same as defined 33 CFR 101.105.

Designated representative means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the COTP, in the enforcement of regulated navigation areas, safety zones, and security zones.

Certain dangerous cargo includes Division 1.5D blasting agents for which a permit is required under 49 CFR 176.415 or, for which a permit is required as a condition of Research and Special Programs Administration exemption. This includes ammonium nitrate fuel oil mixture.

Especially hazardous cargo means anhydrous ammonia, ammonium nitrate, chlorine, liquefied natural gas, liquefied petroleum gas, and any other substance, material, or group or class in a particular amount and form that the Secretary

determines by regulation poses a significant risk of creating a transportation security incident while being transported in maritime commerce.

(c) Regulations. (1) Entry into or remaining on or within the zones described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port St. Petersburg or a designated representative.

(2) Any changes to the requirements for these regulated areas will be given by Broadcast Notice to Mariners on VHF-FM Channel 22A.

Note to § 165.703(c)(2): A graphical representation of all fixed security zones will be made available through nautical charts via the Coast Pilot.

(3) The Captain of Port St. Petersburg has provisions for escorting especially hazardous cargos as described in the above sections of this subchapter, but reserves the right to establish additional provisions for any potentially hazardous cargos.

(4) Enforcement. Under 33 CFR 165.33, no person may authorize the operation of a vessel in the security zones contrary to the provisions of this section.

(d) The Captain of the Port St. Petersburg may waive any of the requirements of this subpart for any vessel, facility, or structure upon finding that the vessel or class of vessel, operational conditions, or other circumstances are such that

application of this subpart is unnecessary or impractical for purposes of port safety and security or environmental safety.

§§ 165.704, 165.760, 165.767, and 165.768 [Removed and Reserved]

3. Remove and reserve §§ 165.704, 165.760, 165.767, and 165.768.

Dated: November 20, 2014

G. D. Case,
Captain, U.S. Coast Guard,
Captain of the Port St. Petersburg.

[FR Doc. 2014-29582 Filed 12/16/2014 at 8:45 am; Publication Date: 12/17/2014]